IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.1757 OF 2007

Razia Begum Abdul Karim & Anr. ...Applicants.
V/s.
Senior Inspector of Police,
Cuffe Parade & Ors. ...Respondents.

H.K.Prem & Priyanka Vegad, advs. for the Applicants.
Ms.M.H.Mhatre, APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 8th June, 2007.

P.C.:

1. Heard Mr.Prem the learned counsel for the applicants and Ms. Mhatre the learned APP for the respondent nos.1 and 2.

2. To state in brief, the applicants are running hotel "Blue Bird". Vigilance Department of BEST paid visit to the said hotel and checked the electric meters and suspected that the meters were tampered and they assessed that the applicants are liable to pay further amount of Rs.18,73,848/- as electric charges. Meanwhile the Vigilance Department also filed complaint with Cuffe Parade police station and crime no.307 of 2002 under Section 379 of the I.P.C. as well as under Section 39 and 44(k) of the Indian Electricity Act came to be registered. After the applicants were informed about

the claim made by the Vigilance Department, they approached the General Manager, BEST, who allowed them to deposit 50% of the amount and the matter was decided to be placed before the Review Committee. Accordingly the applicants deposited 50% of the total amount awaiting report of the Review Committee. According to the applicants, after review, the Review Committee found that only an amount of Rs.4,25,000/- was due from the applicants and out of the amount already deposited, balance amount of Rs.5,09,000/- has been refunded to the applicants. In view of this development, the applicants approached the BEST to withdraw the criminal case. The Divisional Engineer, Vigilance Department of the BEST, by letter dated 26-4-2007 informed the applicants that because it was a police case, they were not in a position to withdraw the case. However, he also informed that the BEST would inform the concerned police station about the amicable settlement of the claim. The case could not be compounded under Section 39 of the Electricity Act only because the offence is not compoundable under the law.

3. By this application, the applicants seek to quash the criminal case no.4700286/P/2003 based on the offence registered by the Cuffe Parade Police Station. In view of the fact that the matter has been amicably

settled but only because it is the police case and the offence is not compoundable, neither it can be withdrawn nor it can be compounded.

4. Ms. Mhatre the learned APP makes a statement that the BEST has infact informed the concerned police station about the amicable settlement. It appears that as per the report lodged with the police by the Vigilance Department, there was electricity theft to the tune of Rs.18,73,848/- while Review Committee finally found that amount of Rs.4,25,000/- only was due. In view of the fact that applicants had deposited more than the actual due amount as per the directions given by the BEST and finally an amount of Rs.5,09,000/- was came to be refunded to them, shows their bonafides. Criminal case was launched due to mistaken view taken by the Vigilance Department.

5. In view of these circumstances, I find that no purpose will be served if the criminal case is allowed to be pending. It will be mere wastage of time of the Court and abuse the procedure. Therefore, in the interest of justice and to avoid misuse of the process of the Court, application is allowed in terms of prayer clause (a).

6. Application stands disposed off.

(J.H.Bhatia,J.)